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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,141	04/13/2004	Troy J. Ziegler	48452.2.1	4533

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/823,141

**Applicant(s)**

ZIEGLER ET AL.

**Examiner**

Matthew J Kasztejna

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/27/04 & 10/22/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No 5,571,114 to Devanaboyina.

In regards claim 1,10-17, Devanaboyina discloses a mechanism to advance an object within a lumen comprising: a toroid, the toroid being a fluid-filled, enclosed ring formed of a flexible material, the enclosed ring defining a central cavity, having an interior volume and presenting an exterior surface 15 and an interior surface 16 which move continuously in opposite directions when the apparatus is in motion; a frame 17 formed of a support structure located within the interior volume of the enclosed ring, a housing structure concentrically and coaxially located relative to the support structure and disposed in the central cavity of the enclosed ring ( see Col. 5, Line 62 – Col. 6 Line 23 and Fig. 1), but is silent with respect to a series of at least two sets of interlocking rollers or skids located on the support and housing structures, the rollers or skids being located so as to maintain the two structures in a fixed spatial relationship with the flexible material of the enclosed ring being positioned between the two structures and the rollers or skids located thereon. However Devanaboyina teaches that the sheath loop can be positioned between two or more posts, hoops, or wickets or other anchoring

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means, around or through which the sheath loop passes and then circles back on itself to complete a circle. The anchoring means does not prevent the movement or sliding of the sheath. In addition or in the alternative, a set of wheels, gears, rollers or other rotational device can be positioned near a first tip of the elongated implement to improve entry and forward movement into the lumen by allowing the film sheath, such as a chain, to ride over and rotate said wheels, gears or rollers (see Col. 3, Lines 3-13). Furthermore, the sheath loop could be a part of the film sheath that encircles the endoscope (see Col. 3, Lines 40-43). Therefore, it would have been obvious to one skilled in the art to have a series of interlocking rollers or skids through which the flexible material would pass in order to provide propel a endoscope into a lumen while minimizing damage to the lining epithelium from friction force created by movement of the implement as taught by Devanaboyina. The apparatus of Devanaboyina is considered to be inherently capable of the recited method claims.

**In regards claim 2, 8-9**, Devanaboyina discloses a mechanism to advance an object within a lumen further comprising at least one accessory device 11 (see Fig. 1).

**In regards claims 3-5, 7**, Devanaboyina discloses a mechanism to advance an object within a lumen further comprising a power source connected to the rollers which when powered provide a motive force to the flexible material of the enclosed ring (see Col. 5, Lines 50-61).

**In regards claim 6**, Devanaboyina discloses a mechanism to advance an object within a lumen wherein the flexible material is a polymeric material (see Col. 5, Lines 28-32).

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**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,699,179 to Wendlandt

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

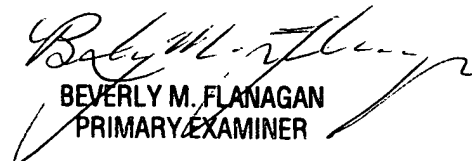
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

*MK*

3/4/05

  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER